

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE TREMONT SECURITIES LAW, STATE LAW Master File No.
AND INSURANCE LITIGATION : 08 Civ. 11117 (TPG)

This Document Relates to: INSURANCE ACTION, :
09 Civ. 557 (TPG), and specifically to: :
YALE M. FISHMAN 1998 INSURANCE TRUST, :
Plaintiff, : 11 Civ. 1283 (TPG)
- against - : ECF CASES
PHILADELPHIA FINANCIAL LIFE ASSURANCE :
COMPANY, et al., :
Defendants. :
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**THE TREMONT DEFENDANTS' SUPPLEMENTAL
MEMORANDUM OF LAW REGARDING SLUSA**

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Pursuant to the Order of this Court dated May 6, 2015, Tremont¹ respectfully submits this supplemental brief "setting forth [its] position[] on the application of [the Securities Litigation Uniform Standards Act of 1998 ("SLUSA"), Pub. L. No. 105-353, § 101, 112 Stat. 3227 (1998)] to the claims in this case." (Dkt. No. 69.)

The claims alleged against Tremont in this case are not subject to SLUSA. All of those claims have been pled not as class claims potentially subject to the statute, but rather, as derivative claims on behalf of four hedge funds managed by Tremont. Substantially identical claims were asserted against Tremont by the same plaintiff ("Fishman") in the complaint it filed in the companion case before this Court captioned Yale M. Fishman 1998 Insurance Trust v. General American Life Insurance Co., 11 Civ. 1284 (TPG) ("Fishman I"). This Court granted Tremont's motion to dismiss those claims by Order dated March 7th, 2013, finding that they are derivative in nature, Fishman lacks standing to assert them and they are barred by the judgment entered by this Court in the consolidated class and derivative case captioned In re Tremont Securities Law, State Law & Insurance Litigation, 08 Civ. 11117 (TPG). See Fishman I, 11 Civ. 1284 (TPG), 2013 WL 842642, at *5-6 (S.D.N.Y. Mar. 7, 2013).

The claims against Tremont in this case should be dismissed for the same reasons stated by the Court in Fishman I. Consequently, it is Tremont's position that SLUSA has no bearing

¹ "Tremont" refers to defendants Tremont Group Holdings, Inc., Tremont Partners, Inc., Tremont Capital Management, Inc., Rye Investment Management, Robert Schulman, Rupert A. Allan, Cynthia J. Nicoll, Ileana M. Lopez-Balboa, Stephen Clayton, John T. Matwey, Lynn O. Keeshan and Barry H. Colvin.

on resolution of the claims against it in this case.

Dated: New York, New York
May 29, 2015

Respectfully submitted,

/s/ Seth M. Schwartz

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